

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 98-0311-01-CR-W-GAF
)	
EDWIN R. HINESTROZA,)	
)	
Defendant.)	

ORDER

Now pending before the Court is defendant's Motion TO Strike Certain Alleged Aggravating Factors on the Grounds of Overbreadth, Vagueness, and Relevance. Defendant argues that the non-statutory aggravating factors of (1) future dangerousness; lack of remorse; (2) future dangerousness; fugitive from justice; and (3) future dangerousness; drug trafficking evidence when arrested, as well as the statutory aggravating factor of (4) committing the offense in an especially heinous, cruel or depraved manner are overbroad and/or vague.

On October 6, 2005, United States Magistrate Judge Sarah W. Hays issued her Report and Recommendation.

Upon careful and independent review of the pending motion, as well as the applicable law, this Court hereby adopts and incorporates as its own Opinion and Order the Report and Recommendation of United States Magistrate Judge Sarah W. Hays.

Accordingly, it is hereby ORDERED that Defendant's Motion to Strike Certain Alleged Aggravating Factors on the Grounds of Overbreadth, Vagueness, and Relevance is OVERRULED and DENIED.

SO ORDERED.

/s/ Gary A. Fenner
GARY A. FENNER, JUDGE
United States District Court

DATED: October 24, 2005